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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Sara Do, an individual,  
Plaintiff,  
v.  
Arizona Board of Regents, an Arizona  
State Entity; et al.,  
Defendants.

No. CV-22-00190-PHX-JJT

**DEFENDANT ABOR'S SEPARATE  
STATEMENT OF FACTS IN  
SUPPORT OF ITS MOTION FOR  
SUMMARY JUDGMENT**



### **The MEPN program and the importance of in-person clinical rotations**

1           **The MEPN program and the importance of in-person clinical rotations**  
2           1.       Arizona State University (“ASU”) Edson College of Nursing and Health  
3           Innovation’s (“Edson”) Masters Entry to Nursing Practice (“MEPN”) program is an intensive  
4           pre-licensure graduate nursing program designed for students seeking to pursue their Registered  
5           Nursing license and a graduate degree concurrently. (Declaration of Salina Bednarek, attached  
6           as **Exhibit 1**, ¶¶ 5-6.) The program is based at ASU’s Downtown Phoenix campus. (*Id.*) In  
7           accordance with requirements set by the Arizona Board of Nursing (“AZBN”), the MEPN  
8           program was designed to include in-person clinical rotations at outside clinical facilities such  
9           as hospitals, clinics or public health agencies. (*Id.* ¶ 7.)

10          2.       When Edson created the MEPN program, it was required to obtain approval of  
11          the program curriculum from the AZBN. (*Id.* ¶ 8; Declaration of Margi Schultz, Ph.D., attached  
12          as **Exhibit 7** ¶ 13.) As part of the curriculum, Edson determined the total number of clinical  
13          hours MEPN students would complete for each clinical course to attain core nursing  
14          competencies. (Ex. 1 ¶ 8.) When the AZBN approved the MEPN program curriculum, Edson  
15          was obligated to ensure that its students satisfied the approved clinical hour requirements and  
16          could not modify the curriculum without first receiving approval from the AZBN. (Ex. 1. ¶ 9;  
17          Ex. 7 ¶¶ 14-16.)

18          3.       Each clinical rotation consists of several clinical shifts. (Ex. 1 ¶ 10.) The number  
19          of clinical shifts scheduled for each clinical course is determined based on the total number of  
20          clinical hours required for the course and the length of the clinical shifts at the clinical facility  
21          where the students will complete their clinical rotation. (*Id.*)

22          4.       In-person clinical rotations are an essential element of pre-licensure nursing  
23          education—through in-person clinical rotations, students can directly interact with and care for  
24          patients, collaborate with other members of the healthcare team, learn the flow of various  
25          medical care settings, experience the realities of working in the nursing field, and attain core  
26          clinical competencies so that they may safely practice nursing upon graduation. (Ex. 1 ¶¶ 11-  
27          12; Ex. 7 ¶¶ 8-10.) To ensure students are exposed to the realities of nursing, student clinical  
28          shifts are scheduled to overlap with the shifts of staff nurses working in the clinical facility to

1 which the student is assigned. In the vast majority of clinical settings, nursing shifts are 12-  
2 hours in length. (Ex. 1 ¶ 13; Ex. 7 ¶ 12.) Aligning student clinical shifts with the nursing shifts  
3 of the clinical facility allows students to see the full range of nursing activity, including  
4 important steps such as “report on,” when a shift of nurses receives important updates in order  
5 to take over care of patients, and “report off,” when nurses ensure a new shift is able to safely  
6 take over care of patients. (Ex. 1 ¶ 14.) Participation in the “report on/report off” process is an  
7 essential element of a clinical course curriculum. (*Id.* ¶ 14.)

8         5. It is the norm within nursing programs generally, and the expectation of the  
9 MEPN program, that students will attend each clinical shift in full. (Ex. 1 ¶¶ 15; Ex. 7 ¶ 11.)

10         6. The Nursing Clinical Coordination Collaborative (“Collaborative”) was created  
11 in 2001 to facilitate the scheduling for in-person student clinical experiences within Maricopa  
12 County. (*Id.* ¶ 21; Ex. 7 ¶ 18.) The Collaborative manages the scheduling for over 27 nursing  
13 education programs and approximately 27 clinical facilities. (Ex. 1 ¶ 21; Ex. 7 ¶¶ 19-20.)  
14 Months in advance of a given semester, nursing programs request in-person clinical experiences  
15 for their students and clinical facilities input their clinical shift capacities and placement  
16 preferences into an on-line database managed by the Collaborative. (Ex. 1 ¶ 22; Ex. 7 ¶¶ 21-  
17 22.) The Collaborative facilitates the assignment of clinical shifts to each nursing program. (Ex.  
18 1 ¶ 22.; Ex. 7 ¶ 22.)

19         7. Additionally, Edson must identify and secure enough clinical shifts appropriate  
20 to each course. (Ex. 1 ¶ 20.) This further narrows the range of available clinical rotations  
21 because Edson must tailor its requests to clinical facilities based on the courses its students will  
22 be completing in a given semester. (*Id.*)

23         8. Given the competitive nature of securing clinical rotations, the limited number  
24 of available and course-appropriate rotations, and because student clinical rotations are  
25 scheduled months in advance, there are few to no “extra” shifts available in a given semester.  
26 (Ex. 1 ¶ 23; Ex. 7 ¶¶ 25-27.) Once clinical placements have been approved, it is very difficult,  
27 and at times impossible, to obtain additional clinical placements during a given semester. (Ex.  
28 1 ¶ 23; Ex. 7 ¶¶ 24-25.)

1           9.       The clinical facilities determine the times, dates, and areas of their facility in  
2 which they are willing to host students for clinical rotations. (*Id.* ¶ 19; Ex. 7 ¶ 23-24.) Clinical  
3 facilities have the final authority over when and where students can be on site and when the  
4 COVID-19 pandemic began and clinical facilities paused scheduling clinicals, Edson had no  
5 facilities to send its students to. (*Id.* ¶¶ 24-25; Ex. 7 ¶ 29.)

6           10.      In March 2020, Arizona Governor Douglas Ducey issued a Declaration of  
7 Emergency related to the COVID-19 pandemic. (Ex. 1 ¶ 26; Ex. 7 ¶ 30.) The AZBN issued its  
8 own Declaration authorizing educational programs to apply for waivers allowing programs “to  
9 substitute simulations, lab hours, and similar non-direct patient contact for required direct  
10 patients care clinical/instruction hours.” (*Id.*) Edson obtained a waiver from the AZBN allowing  
11 Edson to “substitute direct patient care clinical with simulation, labs, or experiential activities  
12 when direct care clinical [was] not available.” (*Id.* ¶ 29.) Edson also conducted lecture courses  
13 virtually rather than in-person. (*Id.*)

14                   **Do’s enrollment in the MEPN program and her first semester**

15           11.      It was under these conditions when, in the Fall 2020 semester, Sara Do enrolled  
16 in ASU’s Edson MEPN program. (*Id.* ¶ 30.) As the pandemic was beginning to ease, and  
17 clinical facilities began offering a severely limited number of in-person clinical opportunities  
18 for nursing students. (Ex. 1 ¶ 32; Ex. 7 ¶ 32.) Edson was able to schedule MEPN students for  
19 in-person clinical placements in Spring 2021. (Ex. 1 ¶ 32.) Because of the importance of in-  
20 person clinical rotations, Edson was eager to return its students to in-person clinicals. (Ex. 1 ¶  
21 33.)

22           12.      In December 2020, the COVID-19 vaccine was released. (Ex. 1 ¶ 34; Sara Do  
23 Deposition Transcript dated 7/10/23, attached as **Exhibit 9**, at 38:8-23.) Do was concerned  
24 about contracting COVID-19 and hoped to receive the vaccine prior to starting her in-person  
25 clinical courses. (Ex. 9 at 39:4-7; 39:24-40:1; 43:7-9.) Do emailed Dr. Salina Bednarek to ask  
26 whether nursing students were eligible for the vaccine, sharing that getting vaccinated was a  
27 “high priority.” (Ex. 1 ¶ 34; Ex. 9 at 43:2-6.) She also passed her own research as to whether  
28 nursing students would be eligible along to Dr. Bednarek for possible dissemination to other

1 students. (Ex. 1 ¶ 36.)

2 13. On December 30, 2020, Edson informed its prelicensure nursing students they  
3 were eligible for the vaccine but that Edson was not requiring them to receive the COVID-19  
4 vaccine. (Ex. 1 ¶ 37.) Dr. Bednarek shared with Do that the clinical facilities were not requiring  
5 nursing students to be vaccinated at that time. (Ex. 1 ¶ 35.)

6 14. Do alleges that she was told she would need to receive the COVID-19 vaccine  
7 by Edson personnel but admits that she is unable to recall any specifics about this alleged  
8 communication or who may have conveyed this information. (Ex. 9 at 75:10-76:9; 79:18-80:23;  
9 81:5-7.) Edson, in fact, did not require its students to receive the COVID-19 vaccine at any time  
10 during Do's enrollment. (Ex. 1 ¶ 100.)

11 15. On December 28, 2020, Do opted to receive the COVID-19 vaccine. (Ex. 9 at  
12 48:25-49:3.) After receiving the vaccine, Do asserts she had a negative reaction and sought the  
13 aid of on-site EMTs. (Ex. 9 at 52:9-53:1.) Do requested to be transported to the hospital.  
14 (12/28/2020 Chandler Fire Dept. Ambulance Record, included in Banner Ocotillo Medical  
15 Center Records Excerpt (BOMC000073-BOMC000079, BOMC000132-BOMC000135),  
16 attached as **Exhibit 24**, at BOMC00132.) [REDACTED]

17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED] (Ex. 24 at BOMC000079 (12/28/2021 Emergency Dept. Record).) Do alleges  
20 she developed arrhythmia as a result of receiving the COVID-19 vaccine. (First Amended  
21 Complaint ("FAC") ¶ 30; Ex. 9 at 95:16-97:12.) But she admits she suffered from Premature  
22 Ventricular Contractions ("PVCs"), a type of arrhythmia, prior to her receipt of the vaccine. (Ex.  
23 9 at 58:25-60:12; 61:13-15.) Do's medical records confirm she suffered from PVCs for years.  
24 (Ex. 9 at 63:17-66:3; 67:1-98:17; 10/26/20 Desert Grove Family Medical Record  
25 (DGFM000106-DGFM000108), attached as **Exhibit 28**; 10/28/20 Tri-City Cardiology Record  
26 (TCC000034-TCC000037), attached as **Exhibit 29**.)

#### 27 **Do's request for accommodations**

28 16. By the Spring 2021 semester, courses were being taught in a hybrid format,

1 whereby students could attend didactic courses in person or virtually. (*Id.* ¶ 31.)

2 17. Do was scheduled to complete six in-person, overnight clinical shifts at Phoenix  
3 Children’s Hospital. (Ex. 1 ¶ 38.) Do left several shifts early and missed one entirely, asserting  
4 she was not feeling well due to her arrhythmia. (*Id.* ¶ 39.) In one of her courses during Spring  
5 2021, Do was marked as not displaying “Professional Scholarly Behavior” because she left a  
6 clinical shift early without notifying her preceptor. (*Id.* ¶ 40.)

7 18. In March 2021, Do applied to ASU’s Student Accessibility and Inclusive  
8 Learning Services (“SAILS”) office for accommodations related to her heart condition.  
9 (Declaration of Katherine Benedict, attached as **Exhibit 2** ¶ 6; Ex. 9 at 89:11-90:8.) In that  
10 application, Do requested that she either be granted “(A) accommodations to be given  
11 permission to do virtual clinical assignments to fulfill my clinical hour requirements for  
12 graduation . . . , or (B) to be given daytime clinical hours at local, East-Valley hospitals.” (Ex. 2  
13 ¶ 7.) Do requested no other accommodations at that time (*id.* ¶ 8) and reported no other disability  
14 (Ex. 9 at 93:4-12). With her application to the SAILS office, Do submitted a letter from one of  
15 her medical providers indicating that it was “advisable that [Do] maintains a consistent sleep  
16 schedule and work during day time hours.” (Ex. 2 ¶ 9; Ex. 9 at 105:23.) The SAILS office  
17 engaged with Do in an interactive process to better understand the barriers to access she was  
18 experiencing and to evaluate Do’s request for accommodations. (Ex. 2 ¶ 10.) However, the  
19 dates and time for Do’s clinical shifts were already set by the clinical facilities where she was  
20 completing those shifts, and Edson had no daytime shifts for Do’s MEPN cohort. (Ex. 1 ¶ 42;  
21 Ex. 2 ¶ 11.) Do was informed that the following semester, Summer 2021, Do’s MEPN cohort  
22 would transition to daytime clinical rotations and going forward, she would not be scheduled  
23 for overnight clinicals. (Ex. 2 ¶¶ 12-13; *see also* Ex. 1 ¶ 41.) Nevertheless, Edson staff worked  
24 with Do to develop a plan to assist her in completing her clinical courses that semester. (Ex. 1  
25 ¶ 44.)

26 19. Following Do’s early departure from one of her clinical shifts, Do submitted a  
27 health clearance letter from one of her medical providers indicating that it was “advisable that  
28 she . . . work during daytime hours,” but that Do could “otherwise return to her curriculum

without physical or mental restrictions.” (*Id.* ¶¶ 45-46.)

### Summer 2021

20. In June 2021, SAILS approved Do for “faculty letters,” which Do could opt to have sent to her faculty explaining that she was registered with the SAILS office and that she may approach them to discuss potential limitations in class. (Ex. 2 ¶ 16.) Do did not ask the SAILS office to send faculty letters in any of her Summer 2021 courses. (*Id.* ¶¶ 17-18.) Do also requested that she be allowed virtual attendance for her Fall 2021 lecture classes. (*Id.* ¶ 22.) SAILS informed her they could not approve virtual attendance but could grant her a “flexible attendance” accommodation, which would allow Do to work with her faculty regarding attendance as issues arose. (*Id.* ¶ 23.) SAILS approved the flexible attendance accommodation for Do in June 2021. (*Id.* ¶ 25.)

21. In Summer 2021, Do missed an exam because she “live[d] 40 miles away from the school” and did not have anyone to drive her to school, nor did she “have any one to watch [her] 4 kids.” (*Id.* ¶ 19; Declaration of Candace Keck, attached as **Exhibit 4**, ¶ 5.) Do asked if she could take the exam remotely, but Edson was no longer allowing remote exams. (*Id.* ¶ 6.) Professor Keck agreed to allow Do to complete a make-up exam at a later date and time at the ASU Polytechnic campus, as opposed to the downtown Phoenix campus. (*Id.* ¶ 7; Ex. 2 ¶ 19.) Do later asked to take another exam at an alternate testing location. (Ex. 2 ¶ 20.) Do was again allowed to do so as a courtesy. (*Id.* ¶ 20-21.) Do reported significant trouble in identifying how and what to study prior to taking exams during the Summer 2021 semester, “struggling to retain [the] information,” and was “terrified to fail” the exam. (6/9/2021 Sara Do email to Prof. Paul More (ABOR002598-ABOR002599), attached as **Exhibit 25**, at ABOR002598.)

22. In Summer 2021, Do was enrolled NUR 478: Complex Care, which required she complete six clinical shifts. (Ex. 1 ¶ 47; Ex. 4 ¶ 4; Ex. 9 at 113:1-3, 114:14-16.) Edson faculty made efforts to place Do at the nearest available clinical site to her home for her NUR 478 clinical shifts; she was assigned to Banner Gateway MD Anderson for her clinical shifts, all of which were daytime shifts. (Ex. 1 ¶ 48; Ex. 9 at 114:17-20; 115:4-6.) On July 9 and 10, 2021, Do missed two of her scheduled clinical shifts, citing issues relating to her arrhythmia, and



1 later missed part of an additional shift on July 16, 2021. (Ex. 1 ¶¶ 49, 56; Ex. 4 ¶¶ 10, 13; Ex. 9  
2 at 115:7-12.)

3 23. At first, Do was given written make-up assignments to account for the time she  
4 missed in clinical. (Ex. 1 ¶ 50; Ex. 4 ¶ 11.) In Summer 2021, as the pandemic was easing,  
5 representatives of the AZBN told nursing programs they should utilize available clinical  
6 opportunities, rather than other alternatives that had been approved at the height of the  
7 pandemic. (Ex. 1 ¶¶ 51-52.) As a result, in July 2021, Edson decided to stop accepting written  
8 make-up assignments in lieu of in-person clinical hours, and to require missed clinical time to  
9 be made up with additional clinical hours. (*Id.* ¶ 53.) This decision was made for all of Edson's  
10 prelicensure nursing programs. (*Id.*) Dr. Bednarek conveyed this decision to Edson faculty,  
11 including Prof. Candace Keck. (*Id.* ¶¶ 54-55; Ex. 4 ¶ 12.)

12 24. On July 8, 2021, Ms. Benedict, Do's Accessibility Coordinator, emailed Do to  
13 inform her that if she missed any further clinical shifts or hours, she would not be permitted to  
14 make up that missed time with written assignments. (Ex. 2 ¶¶ 26-28.)

15 25. On July 9, 2021, Dr. Bednarek, Edson Associate Dean Dr. Kathy Kenny, and  
16 Ms. Benedict met with Do to discuss options to address her clinical absences. (Ex. 1 ¶ 57; Ex.  
17 2 ¶ 30.) Dr. Bednarek confirmed that written make-up work was no longer available to MEPN  
18 students, including Do, to make up missed clinical hours. (Ex. 1 ¶ 58; 7/9/2021 Video  
19 Recording Part 1 (Do\_000324 at 21:53-22:36), attached as **Exhibit 21**; 7/9/2021 Video  
20 Recording Transcript Part 1 (Valleywise-0556-Valleywise-0593), attached as **Exhibit 18**, at  
21 Valleywise-0572:9-Valleywise-0573:4; Ex. 9 at 116:12-16.)

22 26. During the July 9 video call, Do, for the first time, asked whether it would be  
23 possible for her to break up her clinical shifts into shorter segments of time. (Ex. 1 ¶ 59; Ex. 21  
24 at 29:54-30:16; Ex. 18 at Valleywise-0579:17-24.) Drs. Bednarek and Kenny explained that  
25 they could not reduce the total amount of clinical time Do would complete because they were  
26 bound by the AZBN to ensure students completed all of their clinical rotation requirements (Ex.  
27 1 ¶ 59; Ex. 21 at 30:35-31:34; Ex. 18 at Valleywise-0580:7-14), and that finding additional  
28 clinical rotations was extremely difficult (Ex. 1 ¶ 59; Ex. 21 at 30:35-31:34, 31:52-32:20; Ex.



18 at Valleywise-0580:15-Valleywise-581:15; 7/9/2021; Video Recording Part 2 (Do\_000325), attached as **Exhibit 22**, at 29:35-29:49; 7/9/2021 Video Recording Transcript Part 2 (Valleywise-0594-Valleywise-0634), attached as **Exhibit 19**, at Valleywise-0627:19-23.) Dr. Bednarek further explained that breaking up clinical shifts was disruptive to the clinical facility unit where the student was placed. (Ex. 1 ¶ 59; Ex. 21 at 31:53-32:20; Ex. 18 at Valleywise-0581:8-16.)

27. Drs. Bednarek and Kenny offered Do the option to take an incomplete in NUR 478, which would “stop the clock” so that she could take time to address her health concerns and pick back up when she was able to do so without the need to retake the full course. (Ex. 1 ¶ 60; Ex. 22 at 2:25-3:06; Ex. 19 at Valleywise-0601:5-21.)

28. Alternatively, Dr. Bednarek offered to attempt to find additional clinical opportunities for Do to make up her missed clinical time. (Ex. 1 ¶ 61; Ex. 21 at 30:35-31:34; Ex. 18 at Valleywise-24:7-25.) Dr. Bednarek reiterated it would be difficult to find these opportunities because of the limited number of clinical facilities available, the limited time remaining in the semester, and because she would need to identify an Edson staff member to supervise Do while on site. (Ex. 1 ¶ 62; Ex. 21 at 30:35-31:34; 32:48-33:10; Ex. 18 at Valleywise-0580:7-25; Valleywise-0582:4-11; Valleywise-0584:15-25.) ASU staff made clear they would help Do find a way to remain in the program and complete her coursework. (Ex. 1 ¶ 63; Ex. 21 at 20:35; Ex. 18 at Valleywise-0571:12-19; Ex. 22 at 24:40-24:59; Ex. 19 at Valleywise-0622:2-6.)

29. Do declined to take an incomplete and asked for make-up clinical shifts. (Ex. 1 ¶ 64.) Dr. Bednarek began the process of identifying possible additional make-up clinical shifts specific for Do. (*Id.*) This was a process above and beyond the standard process of procuring clinical shifts for students. (*Id.* ¶ 65.) Dr. Bednarek’s options were limited due to the competitive nature of obtaining limited clinical shifts for students. (*Id.*)

30. In the meantime, Prof. Keck, who served as the Course Coordinator for Do’s NUR 478 course, provided Do written assignments to make up the missed clinical time. (*Id.* ¶ 66; Ex. 4 ¶¶ 14, 16; Ex. 9 at 116:17-118:3.) Although Prof. Keck had been told that written

1 make-up work would no longer be permitted, she misunderstood when Edson would implement  
2 that requirement. (Ex. 4 ¶ 14.) When she offered Do the written assignments, Prof. Keck  
3 believed they would be accepted by Edson to make up for Do's missed clinical hours. (*Id.* ¶  
4 15.) When Dr. Bednarek learned that Prof. Keck had assigned written make-up work to Do, she  
5 notified Do promptly that such alternative assignments would not be accepted, as had been  
6 discussed with Do previously. (Ex. 1 ¶ 67.) Around the same time, Prof. Keck also mistakenly  
7 assigned a written make-up assignment to another student who missed clinical hours. (*Id.* ¶ 20.)  
8 Like Do, that student was not permitted to submit the written assignments in lieu of clinical  
9 hours and was required to complete an in-person clinical shift to make up missed clinical time.  
10 (*Id.*) This other student was not registered with the SAILS office as having a disability. (*Id.*)

11 31. Do admits she understood that alternative clinical assignments would no longer  
12 be allowed but "gladly took them" and did not inquire as to whether they would be permitted.  
13 (Ex. 1 ¶ 69; Ex. 9 at 119:4-16.)

14 32. Eventually, Dr. Bednarek identified an Edson faculty member, Dr. Kimberly  
15 Day, as a possible preceptor for make-up clinical shifts for Do's missed NUR 478 clinical shifts.  
16 (Ex. 1 ¶ 71.) Dr. Day was concurrently employed in a hospital and therefore could supervise  
17 additional clinical shifts needed by Do if the hospital where she worked approved. (*Id.* ¶ 74;  
18 Declaration of Kimberly Day, attached as **Exhibit 3**, ¶ 3.) Dr. Bednarek worked with Dr. Day  
19 and her employer, Valleywise Hospital ("Valleywise") to schedule make-up clinical  
20 opportunities for Do, supervised by Dr. Day during Dr. Day's shifts at Valleywise. (*Id.* ¶ 73;  
21 Ex. 3 ¶¶ 4-5, 7.) Because Dr. Bednarek believed a clinical rotation in an operating room was an  
22 appropriate setting for fulfilling the course competencies for NUR 478, Dr. Day was an ASU  
23 faculty member and could supervise Do during the clinical shifts, and Valleywise was willing  
24 to allow Do to complete her hours at their facility, she selected this opportunity for Do's make-  
25 up clinical shifts, but she had no prior knowledge of the exact work Do would be doing. (Ex. 1  
26 ¶ 74.) Dr. Bednarek was unaware of any reason Do should be excluded from an operating room;  
27 based on the health clearance forms Do submitted, she had no limitations on her ability to  
28 participate in clinical rotations, other than needing to work during the day. (*Id.* ¶ 75.) Neither

1 Do's heart condition, nor her requests for accommodations played a role in the selection of  
2 Valleywise as the location for Do's make-up shifts. (*Id.* ¶ 76.)

3 33. Around the same time, Dr. Bednarek scheduled a make-up clinical shift for  
4 another student. (*Id.* ¶ 78.) Dr. Bednarek identified Prof. Keck as also holding concurrent  
5 employment at a clinical facility and so assigned that student to Prof. Keck. (*Id.* ¶ 78; Ex. 4 ¶¶  
6 21-22.) As with Do's make-up clinical rotation, Dr. Bednarek did not have prior knowledge of  
7 the exact work that student would be doing. (Ex. 1 ¶ 78.)

8 34. Do was to make up 24.5 hours of missed clinical time through shifts at  
9 Valleywise. (*Id.* ¶ 79.) In response to Do's prior request to work shorter clinical shifts, Dr.  
10 Bednarek arranged for Do to complete three, eight-hour shifts, as opposed to attending full 12-  
11 hour shifts. (Ex. 1 ¶ 81.) She then informed Do of the opportunity secured, explaining that this  
12 arrangement was a "one-time exception" that was an "extra-ordinary change," and would not  
13 be permitted in future semesters. (*Id.* ¶¶ 80, 82.)

#### 14 **The July 24, 2021 Valleywise Clinical Rotation**

15 35. The first of these replacement clinical shifts was scheduled for July 24, 2021.  
16 (Ex. 1 ¶ 83; Ex. 3 ¶ 7.) Do emailed Dr. Day before her first shift to ask if she could work longer  
17 than eight hours in a given shift. (Ex. 3 ¶ 8.) Dr. Day informed her she could stay for 8, 10, or  
18 12 hours, depending on the availability of work and so long as Do provided advance notice of  
19 how long she would stay. (*Id.* ¶ 9.) On July 23, Do emailed Dr. Day with concerns about the  
20 COVID-19 status of patients. (Ex. 3 ¶ 10.) She asked that she not be required to participate in  
21 cases where the COVID-19 status of the patients was unknown. (*Id.*) Each of the surgeries Do  
22 was assigned to during her shift at Valleywise had been scheduled in advance, meaning there  
23 had been time to perform COVID tests on each of the patients, each of whom tested negative.  
24 (Ex. 3 ¶ 11; Sherry Ann Stotler Deposition, attached as **Exhibit 15**, at 91:5-15; 103:12-14;  
25 155:9-156:20.)

26 36. Dr. Day met Do at Valleywise on the morning of July 24 and informed Do that  
27 she would accompany her to a burn surgery. (Ex. 3 ¶ 13.) Dr. Day had limited options for  
28 surgical assignments that day (Ex. 3 ¶ 21), but when Do expressed concerns about whether she

1 could tolerate the warm temperature in the operating room, Dr. Day made arrangements for Do  
2 to attend a different surgery, supervised by Gabriella Novakova, another Valleywise nurse, (Ex.  
3 3 ¶ 14; Ex. 9 at 140:5-11.)

4 37. Valleywise staff participating in that surgery, a wound debridement, reported  
5 that Do acted disinterested during the surgery, stating she was only interested in management  
6 or administrative jobs, not bedside or direct patient care. (Ex. 3 ¶ 21; Janine Carrasco  
7 Deposition, attached as **Exhibit 12**, at 18:17-19:7, 20:14-21:6, 21:20-22:3; 7/24/21 Carrasco  
8 email to Day (ABOR000555), attached as **Exhibit 30**; Gabriela Novakova Deposition, attached  
9 as **Exhibit 13**, at 15:2-24, 17:18-25; 7/24/21 Novakova email to Day (ABOR000560), attached  
10 as **Exhibit 31**; Warren Brent Thomas Deposition attached as **Exhibit 16**, at 25:3-27:25; 7/24/21  
11 Thomas email to Day (ABOR000554); attached as **Exhibit 32**.) Do acknowledges she did not  
12 ask any questions. (Ex. 9 at 144:22-145:2.) Do left the operating room multiple times during  
13 this surgery before it was completed and ultimately did not return. (Ex. 13 at 18:4-19:7; Ex. 16  
14 at 28:5-29:18; Ex. 9 at 147:24-148:2.) As a result, Novakova called Dr. Day to let her know  
15 that Do had left and Novakova did not know where she was. (Ex. 3 ¶ 15; Ex. 13 at 18:4-19:21.)

16 38. After locating Do, Dr. Day assigned Do to another surgery. (Ex. 3 ¶  
17 16.) Valleywise staff participating in this orthopedic surgery again reported that Do appeared  
18 disinterested and did not engage. (Reaia Reaves Deposition, attached as **Exhibit 14**, at 37:14-  
19 45:2; 7/24/21 Reaves email to Day (ABOR000557), attached as **Exhibit 33**.)

20 39. Shortly after entering the operating room for this second surgery, before the  
21 patient had been cut into, Do left the operating room and did not return. (Ex. 3 ¶ 17; Ex. 14 at  
22 20:7-21:19; Ex. 9 at 155:13-21, 158:21-159:10.) Do admits she did not tell anyone in the room  
23 that she would not be returning. (Ex. 9 at 158:21-159:2; 159:25-160:5.)

24 40. After leaving the operating room, Do decided to leave the Valleywise facility.  
25 (Ex. 9 at 154:13-22.) Before leaving, Do did not speak with Dr. Day or anyone else at  
26 Valleywise to let them know that she would be leaving. (*Id.* at 166:12-167:1; Ex. 14 at 33:13-  
27 20.) Do did send two emails to Dr. Day before she left the facility but had not received any  
28 response to those emails before she left. (Ex. 9 at 166:21-23.) Dr. Day did not see or read the

1 emails until sometime after Do had left Valleywise. (Ex. 3 ¶ 18.) Do did not call Dr. Day before  
2 leaving, despite having her phone number in advance of the first clinical shift. (Ex. 9 at 162:7-  
3 8; Ex. 3 ¶ 20.) Do left a voicemail on Dr. Bednarek's work phone but did not speak with Dr.  
4 Bednarek. (Ex. 9 at 166:24-167:1.) Dr. Bednarek did not receive the voicemail until the  
5 following Monday. (Ex. 1 ¶ 84.)

6 41. Do's unexplained departure caused concern among both Edson faculty and  
7 Valleywise staff. (Ex. 3 ¶ 17.) The individuals who observed Do during the clinical emailed  
8 their concerns and feedback to Dr. Day, taking care to ensure their respective emails accurately  
9 represented their observations of Do. (Ex. 3 ¶ 21; Ex. 12 at 24:16-19, 26:14-27:13, 33:11-14;  
10 Ex. 30; Ex. 13 at 23:6-16, 25:2-5; 29:13-30:1; Ex. 31; Ex. 16 at 33:5-10, 40:1-4, 48:17-20; Ex.  
11 32; Ex. 14 at 34:16-35:5, 36:13-14, 52:22-24; Ex. 33.) Dr. Day then incorporated those emails  
12 into the performance evaluation she completed. (Ex. 3 ¶ 22; Ex. 1 ¶ 88.)

13 42. Do later claimed that she left early because of her heart condition. (Ex. 9 at 158:6-  
14 159:10.) However, Do's heart monitors showed no activation of her heart condition. (7/24/21  
15 Kardia EKG Reports (Do\_010498-Do\_010508), attached as **Exhibit 26** (reflecting "[REDACTED]  
16 [REDACTED]"); 7/19/21-8/1/21 Cardiac Event Monitor, included in Valley Heart Rhythm  
17 Medical Records (VHR000197-VHR000200), attached **Exhibit 27** at VHR000197 ([REDACTED]  
18 [REDACTED]).)

19 43. Edson decided that Do would not return to Valleywise for further clinical shifts.  
20 (Ex. 1 ¶ 89.) Because Sara Do abandoned her clinical shift without ensuring Dr. Day or anyone  
21 else was aware that she was leaving, had not consistently demonstrated that she could meet the  
22 course outcomes for NUR 478, and there was no time to schedule additional clinical shifts for  
23 her to complete her course hours, Edson determined that Sara Do would receive a failing grade  
24 in the course. (Ex. 1 ¶¶ 90-92.) Neither Sara Do's heart condition nor her prior request for  
25 accommodations played a role in the decision to issue the failing grade. (*Id.* ¶ 92.)

26 44. On July 28, 2021, Dr. Bednarek, Dr. Margaret Morris, and Professor Keck met  
27 with Do to inform her she would receive a failing grade for NUR 478. (Ex 1 ¶ 94; Ex. 4 ¶ 24;  
28 7/28/2021 Video Recording (Do\_000326), attached as **Exhibit 23**; 7/28/21 Video Transcript

(Valleywise-0635-Valleywise-0665), attached as **Exhibit 20**.)

45. Upon learning that she would not pass NUR 478, Do requested an incomplete for the course. (Ex. 1 ¶ 95; Ex. 9 at 242:17-20; Ex. 23 at 19:50-20:23; Ex. 20 at Valleywise-0655:19-Valleywise-0656:6.) But to be eligible for an incomplete, a student must have made the request “at least two weeks prior to the last day of the semester” and have “successfully completed 80% of their coursework (with a C or better) prior to requesting a grade of incomplete.” (Ex. 1 ¶ 96.) Because Do only requested an incomplete after failing the course, she was not eligible for an incomplete. (Ex. 1 ¶ 97.)

46. Edson developed a new plan of study so she could complete the remainder of the MEPN program. (Ex. 1 ¶ 93.) She was never dismissed from the program. (*Id.*; Deposition of Sara Do dated 8/2/23, attached as **Exhibit 10**, at 285:12-14.)

47. Do appealed the failing grade through Edson’s grade appeal process. (Ex. 1 ¶ 98; FAC ¶ 56.) Do’s failing grade was upheld at every level of that appeal. (Ex. 1 ¶ 98; FAC ¶ 58.) Do later appealed ASU’s determination of her academic grievance to Maricopa County Superior Court. (Ex. 1 ¶ 98.) Her appeal remains pending. (*Id.*)

#### **Do takes a leave of absence**

48. In September 2021, rather than pursue her new plan of study, Do opted for a leave of absence from the MEPN program. (Suppl. Compl. ¶ 1; Ex. 10 at 285:15-286:4.)

49. Do has identified five accommodations she believed she was improperly denied during the Spring and Summer 2021 semesters: (a) the ability to attend class remotely; (b) the ability to take an incomplete for NUR-478; (c) the ability to complete assignments (exams) at an ASU testing center; (d) shorter sessions/broken up clinical hour requirements; (e) written assignments to replace clinical hour requirements. (Plaintiff Sara Do’s Supp. Responses to Def. ABOR’s First Set of Special Interrogatories dated 7/6/23, attached as **Exhibit 36** at 6.)

50. Do cannot identify any class that she wanted to attend remotely but was not allowed to do so. (Ex. 9 at 239:17-20; Ex. 10 at 265:5-19.)

#### **Do’s return to the MEPN program and her new accommodations requests**

51. In Fall 2022, as her leave was ending, Do began the process of returning to the



1 MEPN program. (Ex. 11 at 10:17-25; 11/1/2022 Email from Sara Do to Nancy Kiernan  
2 (ABOR010732-ABOR010733), attached as **Exhibit 34** at ABOR010732.) On November 17,  
3 2022, Do submitted a new application to the SAILS office. (Ex. 2 ¶ 32.; Sara Do Deposition  
4 Transcript dated 3/16/24, attached as **Exhibit 11**, at 16:19-25.) She identified “heart disease”  
5 as her “Primary Disability,” and “Chronic Migraines, Anxiety Disorder, and Endocrine  
6 System” as “Secondary Disabilities.” (Ex. 2 ¶ 33.)

7 52. Two days later, Ms. Benedict and Do met as part of the interactive process to  
8 identify potential barriers to access and discuss potential accommodations. (Ex. 2 ¶¶ 34-35.)  
9 Ms. Benedict asked Do to provide information from her healthcare providers. (*Id.* ¶ 35.)  
10 Following the meeting, Ms. Benedict directed Do to the steps she could take to obtain  
11 exemptions from the COVID-19 and influenza vaccinations, which were required by some of  
12 the clinical facilities Do might be assigned to. (*Id.* ¶ 36.) Because many clinical facilities  
13 required nursing students to receive the vaccine, Edson asked students to provide either proof  
14 of their vaccination status or an exemption letter that could be submitted to the clinical facilities.  
15 (Ex. 1 ¶¶ 102-103; Declaration of Alicia Wackerly-Painter, attached as **Exhibit 8**.) In Fall 2022,  
16 the SAILS office assisted Edson students with the preparation of COVID-19 vaccination  
17 exemption forms that could be submitted to clinical partners who required the vaccine or an  
18 exemption, if the students submitted appropriate medical documentation. (Ex. 8 ¶ 7, 10-11.)  
19 The ultimate determination of whether a student who did not receive the vaccine could  
20 participate in a clinical rotation was at the discretion of the clinical facility. (*Id.* ¶ 12; Ex. 1 ¶  
21 104.)

22 53. On December 13 and 14, 2022, Do emailed documentation from her medical  
23 providers to the SAILS office to support her requests for accommodation. (Ex. 8 ¶ 16-17, 19.)  
24 In her December 14, 2022 email, Do included a document that set out her accommodation  
25 requests for the upcoming semester, which were: (a) exemption from receiving COVID and  
26 influenza vaccinations; (b) “[O]pen scheduling” of her clinical shifts so that Do could “go to  
27 any approved clinical site for any scheduled shift and work however long [she] could tolerate”;  
28 (c) exams to be taken at a different campus from her main program campus; (d) no overnight



1 clinical shifts; (e) “[f]lexible attendance” for in-person classes; (f) permission to take breaks as  
2 needed during classes and clinicals to take medication; (g) a support companion to accompany  
3 her on campus and to her clinical shifts; and (h) placement at East Valley clinical locations if  
4 her request for open scheduling was denied. (*Id.*; Ex. 11 at 27:14-29:19.)

5 54. Do’s treating psychologist, Dr. Eddie Taylor, reported that “prolonged periods  
6 of time in any given activity may impact the student’s anxiety and stress level. Reduced  
7 exposure or presence in any uncertain area will be an appropriate accommodation.” (Ex. 8 ¶ 2.)  
8 He recommended Do be allowed a support companion to accompany her to class and that Do  
9 be granted “modified block hours to complete her required clinical training.” (*Id.* ¶ 22.) He did  
10 not provide further explanation of what “modified block hours” meant. (*Id.*) Do’s treating  
11 cardiologist, Dr. Jonathan Weiss, reported that related to her PVCs, “[t]here may be limitations  
12 with more significant exertion as well as working very long hours without adequate breaks, rest,  
13 and allowance for sleep.” (*Id.* ¶ 23.) Her primary care physician, Alison Kaplan, reported that  
14 related to her multi-focal PVCs, Do was “unable to sustain long term physical exertion due to  
15 heart condition.” (*Id.* ¶ 24.)

16 55. On December 15, 2022, ASU provided Do a COVID-19 vaccine exemption  
17 letter she could submit to clinical facilities requiring a COVID-19 vaccination. (*Id.* ¶ 18.) Do  
18 was not required to obtain any further COVID-19 vaccines and she opted out of the influenza  
19 vaccine using a form provided by Edson. (Ex. 11 at 32:11-14; Ex. 1 ¶ 103; *see* Ex. 2 ¶ 36.)

20 56. The SAILS office reviewed Do’s requested accommodations and medical  
21 documentation, and asked Do additional questions. (Ex. 8 ¶ 25.) When the SAILS office asked  
22 to be permitted to speak with Dr. Taylor, Do authorized Dr. Taylor to discuss the  
23 recommendation for a support companion only. (*Id.* ¶¶ 25-26.) The SAILS office was not  
24 otherwise authorized by Do to speak with her medical providers. (*Id.* ¶ 27.)

25 57. The SAILS office further spoke with individuals from Edson to understand the  
26 program requirements and fundamental elements of Do’s nursing program to assess her  
27 requests. (Ex. 8 ¶ 28.) After engaging in the interactive process and analyzing the information  
28 Do and Edson provided, the SAILS office responded to Do’s remaining accommodation

1 requests on January 6, 2023. (*Id.* ¶ 29; FAC ¶ 13.)

2 58. The SAILS office approved some of Do's requests and denied others. (Ex. 8 ¶  
3 30; FAC ¶ 14.) No accommodations were denied because Do previously requested  
4 accommodations or filed her lawsuits. (*Id.* ¶ 31.) Where an accommodation request was denied,  
5 the SAILS office had determined it was unreasonable, not possible, or would result in a  
6 fundamental alteration of her educational program. (*Id.*)

7 59. The SAILS office approved Do's request for flexible attendance for her lecture  
8 courses, as it had done in 2021. (Ex. 8 ¶ 32; Ex. 11 at 35:11-24.) In response to Do's request for  
9 daytime clinical shifts, SAILS explained that Do's MEPN cohort was not scheduled for  
10 overnight clinical shifts for the Spring 2023 semester and Do was only scheduled for daytime  
11 clinical shifts. (Ex. 8 ¶ 33.) Do was only scheduled for daytime clinical shifts for the remainder  
12 of her MEPN program. (Declaration of Victoria Scheer, attached as **Exhibit 6**, ¶ 11; Ex. 11 at  
13 34:22-35:10.) The SAILS office approved Do's request for a support companion to accompany  
14 her to on-campus and clinical site activities. (Ex. 8 ¶ 34; Ex. 11 at 39:6-10.) The SAILS office  
15 approved Do's request to take a short break to take medication as needed. (Ex. 8 ¶ 46; Ex. 11  
16 at 36:3-37:25.)

17 60. As to Do's request for placement at East Valley locations, the facility Do was  
18 assigned to, St. Joseph's Medical Center, was the closest available clinical facility to the East  
19 Valley that otherwise satisfied MEPN program requirements. (Ex. 8 ¶ 35; Ex. 6 ¶¶ 7-10.) Do  
20 completed all of her remaining clinical shifts at St. Joseph's Medical Center, with the exception  
21 of one course, which was completed at a facility in Gilbert. (Ex. 6 ¶ 13; Ex. 11 at 72:6-9;  
22 Declaration of Bryan Reddick, attached as **Exhibit 5**, ¶¶ 4-5.)

23 61. Do's request for "open scheduling" for clinical shifts, by which she could attend  
24 any clinical site for any scheduled clinical shift, for any length of time at her own discretion,  
25 was denied because it would constitute a fundamental alteration of the program. (Ex. 8 ¶ 36;  
26 Ex. 1 ¶ 107.) As explained to Do, learning outcomes are designed so that students get real  
27 experience that includes attendance at full clinical shifts from "report on" to "report off." Do's  
28 request for "open scheduling" would have modified this fundamental element of the MEPN

1 nursing curriculum. (Ex. 8 ¶ 37; Ex. 1 ¶ 107; SOF ¶ 4.) Allowing Do to leave a clinical shift  
2 part-way through the shift and without warning would be disruptive to the clinical facilities and  
3 patient care. (Ex. 8 ¶ 38; Ex. 1 ¶ 108.)

4 62. Additionally, Do's request for "open scheduling" was denied because each of  
5 the teams completing the same courses as Do were assigned to clinical rotations on the same  
6 days and at the same times, just at different hospitals meaning if Do were to miss one of her  
7 assigned clinical shifts, she would also miss the clinical shifts of the other teams and would not  
8 have any available options to make up the missed shift. (Ex. 8 ¶ 39.; Ex. 6 ¶ 12; Ex. 1 ¶ 109.)  
9 Do could not attend clinical shifts for a different cohort because those students were enrolled in  
10 different courses, with different learning outcomes. (Ex. 1 ¶ 110.) Moreover, the clinical  
11 partners for each clinical rotation had only approved a certain number of student placements for  
12 each rotation. (*Id.*)

13 63. If "open scheduling" were allowed and Do missed a clinical shift, Edson would  
14 have had to secure additional clinical shifts along with Edson faculty members to supervise just  
15 Do with little to no notice. (*Id.* ¶ 111.) Given the limited availability of clinical placement  
16 opportunities, this would not have been a reasonable option. (*Id.*)

17 64. Instead of "open scheduling," SAILS approved an alternative accommodation  
18 by which Do could either take one 2-hour break or two 1-hour breaks in the course of an  
19 assigned 12-hour clinical shift, with the time missed in breaks made up through simulation. (Ex.  
20 8 ¶ 40.) The breaks were to be scheduled mid-day, mid-shift. (*Id.*; Ex. 11 at 57:7-23.) Based on  
21 the information provided by Do and her medical providers, SAILS understood the barrier to  
22 access that Do faced was that if she was required to complete a full 12-hour shift, this might  
23 trigger Do's arrhythmia or her anxiety symptoms. (Ex. 8 ¶¶ 41-42; Ex. 11 at 53:16-54:5.) By  
24 granting Do the opportunity to break each 12-hour shift into shorter blocks of time, and to  
25 shorten the total time Do spent working on a given shift by two hours, the SAILS office intended  
26 to provide an accommodation designed to allow Do to create a schedule to prevent arrhythmia  
27 or anxiety symptoms from occurring. (*Id.* ¶ 43.) The SAILS office later explained to Do that  
28 she would need to coordinate with the clinical site for a location to take her breaks, but that

1 SAILS was “happy to be a part of any dialogue if needed” to coordinate locating an area in  
 2 which Do would utilize her breaks. (*Id.* ¶ 44.) Do never utilized her accommodation breaks. (*Id.*  
 3 ¶ 45; Ex. 11 at 67:13-17; 72:16-18.) In one instance, Do was able to complete a shift after taking  
 4 a break after feeling unwell. (Ex. 6 ¶ 18.)

5 65. Do’s request to take exams at a different campus from her main campus was  
 6 denied. (Ex. 8 ¶ 47-48.) There appeared to be minimal barriers to access for Do to travel to the  
 7 downtown Phoenix campus because Do made this same trip for her lecture courses and her  
 8 clinical shifts at St. Joseph’s Hospital. (Ex. 8 ¶ 49.) SAILS explained that Do could use the  
 9 inter-campus bus system if she did not want to drive. (Ex. 2 ¶ 24.)

10 66. In April 2023, Do made an additional request for extra testing time, which was  
 11 granted but never used. (Ex. 3 ¶ 38; Ex. 8 ¶ 50; Ex. 11 at 63:20, 65:4-8; 65:10-12.)

12 67. Prior to Summer 2023, SAILS asked Do if she needed to make any changes to  
 13 her approved accommodations or if she wanted to continue with her current accommodations;  
 14 Do responded that she wished to “continu[e] everything.” (Ex. 3 ¶ 39.)

#### 15 **Do’s final clinical rotation**

16 68. Do’s final clinical shift for the MEPN program was in NUR-519, her “transition  
 17 to practice” course or “TTP” course. (Ex. 6 ¶ 16.) The TTP course differs from other MEPN  
 18 clinical courses in that the student accompanies a staff nurse at clinical facility, rather than an  
 19 Edson staff member. (*Id.*) An Edson faculty member (the faculty of record) is not always on  
 20 site, so unlike other MEPN clinical shifts, students in TTP were required to record their clinical  
 21 hours on a log. (Ex. 6 ¶¶ 16, 26; Ex. 11 at 75:6-15.)

22 69. For her TTP course, Do was required to complete seven full shifts, scheduled  
 23 from 7:00 a.m. until 7:00 p.m. (Ex. 6 ¶ 17; Ex. 11 at 74:7-10; *see also* 42:22-43:1.) Do’s final  
 24 TTP clinical was scheduled for August 5, 2023. (Ex. 6 ¶ 19; Ex. 11 at 75:24-76:1.) The night  
 25 before her final clinical shift, Do texted her faculty of record, Professor Jessica Serna, to ask  
 26 whether she could leave her final clinical shift early because she had injured her foot and ankle.  
 27 (FAC ¶ 24; Ex. 11 at 82:24-83:25; 8/4/2023 text message from Sara Do to Jessica Serna  
 28 (Do\_105023-Do\_105024), attached as **Exhibit 35**.) Do admits that her foot and ankle injury is

1 not a disability. (Supp. Compl. at 9, n.9; Ex. 11 at 78:18-79:2.)

2 70. Do explained that, by her own accounting, she had only four hours and fifteen  
3 minutes remaining to satisfy her clinical hours requirement of 84 hours. (Ex. 6 ¶ 21; Ex. 35 at  
4 Do\_105024.) But for the TTP course, MEPN students were expected and required to complete  
5 84 clinical hours, scheduled over seven full 12-hour shifts, including report at the beginning  
6 and end of shift. (Ex. 6 ¶¶ 22-23.) This meant that a shift could last longer than 12 hours, as the  
7 staff nurses might be involved in patient care past their scheduled end time before they can give  
8 report to the next shift of nurses. (*Id.*)

9 71. Do was aware she needed to complete full shifts: on June 6, 2023, Dr. Scheer  
10 informed Do that she would be “required to complete 7 full shifts, at approximately 13-14 hours  
11 each, including report at the beginning and end of each shift.” (*Id.* ¶ 24-25.) The TTP hours log  
12 used by students also makes clear students are to complete “clinical shifts in their entirety” and  
13 expressly states: “Do not leave a shift early because you have reached your hours for the  
14 rotation.” (Ex. 6 ¶ 26.)

15 72. After conferring with Dr. Scheer, Prof. Serna communicated to Do that the TTP  
16 requirement was completion of seven full shifts, including report at the beginning and end of  
17 shift. (Ex. 6 ¶ 27-28; Ex. 35 at Do\_105203.) By requiring Do to complete a full clinical shift,  
18 as opposed to only four hours and fifteen minutes, Edson held Do to the same academic  
19 standard as all other MEPN students. (Ex. 6 ¶ 28.)

20 73. No Edson faculty member told Do she must attend the August 5, 2023 clinical  
21 shift. (Ex. 6 ¶ 29.) Had Do determined she could not safely participate in that clinical, she could  
22 have arranged with her nurse preceptor to attend a different shift before the end of the semester.  
23 (*Id.*) Do made the decision to attend the August 5 clinical shift. (Ex. 11 at 81:1-17.) Do  
24 acknowledges that her nurse preceptor had additional scheduled shifts that Do could have  
25 attended instead, but she did not want to do so. (*Id.* at 81:1-17.) Do intentionally did not seek  
26 medical treatment for her injury because she “didn’t want to have any reason why [she] couldn’t  
27 go to that shift,” and did not want a medical provider to tell her that she could not attend the  
28 shift. (*Id.* at 80:12-25.) Do attended her final TTP clinical shift in full. (*Id.* at 97:2-6.)

75. In this case, Do describes her damages as “the harm she suffered because of Defendants’ failure to accommodate her disability and her resulting emotional distress”; she asserts that she would “require expert testimony to evaluate various factors including the harm done to her reputation and her earning potential” but did not disclose any expert to provide opinions on the alleged harm to her earning potential or reputation or computation of damages, and Do has never disclosed any computation of damages. (Plaintiff Sara Do’s Responses to Defendant Arizona Board of Regents’ First Special Interrogatories, attached as **Exhibit 36**, at 14 (Response to Interrogatory 8).)

76. Do alleges ABOR retaliated against her in 2021 by sending her to Valleywise and issuing her a negative performance review and failing grade. (Ex. 36 at 16-18 (Response to Interrogatory 6).)

DATED this 28<sup>th</sup> day of June, 2024.

OSBORN MALEDON, P.A.

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